IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 173 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

CHEMICOAT LIMITED

Appearance:

1. INCOME TAX REFERENCE No. 173 of 1986
MR BB NAYAK FOR MR MANISH R BHATT for Applicant.
NONE APPEARED for Respondent though served.

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. At the instance of the Revenue, the following question has been referred to this Court for its opinion under the provisions of section 256(1) of the Income-tax Act,1961 by the Income Tax Appellate Tribunal, Ahmedabad, Bench 'A'.

"Whether on the facts and in the circumstances of

the case, the Tribunal was right in coming to the conclusion that the expenditure incurred to the tune of Rs.6,70,784/- by the assessee for setting up a new unit was allowable as revenue expenditure ?"

2. Learned Advocate Mr.B.B.Nayak has appeared for the revenue, whereas nobody has appeared for the respondent-assessee.

3. At the time of hearing of the Reference, it has been submitted by the learned Advocate that in the instant case; while deciding the appeal, the Tribunal had followed its own order passed in the assessee's case. It has been submitted by Mr.Nayak that earlier order was the subject matter of I.T.R.No.260 of 1984 and this Court has answered the question which is similar to one which has been referred to in the instant case in the affirmative i.e. in favour of the assessee and against the revenue.

4. Looking to the facts of the case, even in the instant case, we answer the question referred to this Court in the affirmative i.e. in favour of the assessee and against the revenue.

5. The Reference thus stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J.) (D.A.Mehta, J.)

m.m.bhatt